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UNITED STATES DEPARTMENT OF AGRICULTURE  
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Reserve

THE WAREHOUSEMAN AND HIS RESPONSIBILITIES

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We have been invited to talk on the subject "The Warehouseman and His Responsibilities." We assume our remarks are to apply to cotton warehousemen. At the outset we raise the question: "Whom does the warehouseman serve?" The first answer, and too frequently the only answer that is given is "the depositor."

Of course the real answer depends largely upon who is asking the question. If the question comes from a banker, the answer is framed with a view to pleasing the banker. If it comes from a depositor in a warehouse, the answer is worded to flatter the depositor, and so it goes. The depositor is likely to think that he is the only man to be served. As a class, depositors in warehouses are likely to think the warehouseman owes his existence to them; therefore he exists for them and should grant them any requests they may make. On the other hand, the management of a warehouse too frequently thinks that his board of directors and his stockholders are the only ones who are to be served. Both of these are narrow answers to the question and are incompatible with the modern and progressive concept of the duties of a warehouseman.



It is sometimes said that a warehouseman is in the nature of a public utility, and that therefore the public is to be served by the warehouseman. In a measure that is true, for a warehouseman, within contemplation of the common law, the statutes generally on the subject, and the Federal Warehouse Act, is a person engaged in the business of storing for others.

We can make a more definite approach to the question "Whom does the warehouseman serve" if we ask a further question; namely, "What is the purpose of service on the part of a warehouseman?" By and large a warehouseman comes into existence for one of two reasons, and frequently both are combined. First, to provide storage protection to the products that are offered to him for storage by the public; and second, to convert the products into a form of collateral that may be used with bankers for purposes of seeking credit.

The storing of goods merely for protection against the elements would hardly have given rise to our vast system of public warehousing. After all, it would be more convenient for the owner of goods to store them in his own facilities if he is merely seeking such protection, and in doing so he could usually accomplish such storage at less cost than by resorting to public warehousing.

The development of warehousing to existing proportions is due largely to the desire to place products in a readily marketable position and to convert them into collateral. It may well be that in many instances when products are placed in the warehouse it is not the intention of the depositor to use those products for collateral purposes. Nevertheless the producer of agricultural products, whether on a large or a small scale, and the merchandiser of those products, recognizes that he may have need for collateral



before he actually sells the products. Placing them with a responsible warehouseman who can serve as a disinterested custodian and from whom he secures an informative warehouse receipt which embodies an undertaking of a definite obligation on the part of the warehouseman, places the products in a position where they can be used for collateral on short notice. It also concentrates them at a central point with products of others and thereby places them in a more strategic position for marketing.

The collateral aspect of the question, therefore, injects new responsibilities on the part of the warehouseman. So long as the depositor does not use his commodities for collateral the responsibility of the warehouseman is largely, if not solely, to his depositor. But frequently at the time the goods are placed in storage neither the depositor nor the warehouseman knows whether the products will be used for collateral purposes. Therefore, with the possibility ever present that the products will be used for collateral purposes, the warehouseman must assume the broadest of responsibilities. These responsibilities extend to a great many interests.

The relation with the depositor is created first, but there are responsibilities on the part of cotton warehousemen to railroads, to cotton buyers, to insurance and surety companies, and to bankers, that must be considered at the very time that the warehouseman first receives goods for storage.

It is unnecessary to relate the responsibilities of the warehouseman to common carriers. The intricacies of the cotton business and the huge amounts of money involved place definite responsibilities upon the warehouseman to insurance companies. The many bonded relations that develop in the course of business create equal responsibilities on the part of the warehouseman to surety companies. Because of character of management, the kind of



facilities and equipment, and maintenance of such facilities and equipment, various insurance rates are extended by insurance rating bureaus to various warehousemen and to their patrons. When these rates are extended the warehouseman has a definite responsibility to maintain his facilities and equipment in at least as good condition as they were when the rate-making bureaus considered them for rate-making purposes. From the standpoint of financial responsibility and moral hazard the industry as a whole has a responsibility to both the insurance and the surety companies. Rates for bonds are made on the basis of risks involved. If risks become more hazardous naturally rates will increase. Therefore, in both the insurance and surety fields the warehouseman has a responsibility to the insurance and surety companies. Likewise in this same field he owes responsibilities to his depositors or the holders of his receipts for in the end they must pay the premiums.

As for the depositor, it is frequently said that the relationship between the depositor and the warehouseman is that of bailor and bailee. That is a legal phrase that doesn't mean much to most people. Under the common law the depositing of goods with anyone for storage purposes creates definite obligations on the part of the person with whom the goods are deposited. At most, however, the common law merely imposed the obligation upon the warehouseman to exercise that degree of care over the goods that a reasonably prudent owner would exercise. That definition contemplated largely the storing of goods with another for protection purposes, or for purposes of convenience. It hardly contemplated any of the relations and responsibilities that grow out of that relationship which must develop when a commodity is used for collateral purposes, or when the warehouse receipt,



which is symbolic of the commodity itself, is to pass through channels of trade. Consequently, under the common law much remained to be desired, and as a result many special statutes on warehousing have been enacted.

The Uniform Warehouse Receipts Act has been enacted in 44 of the 48 States. In 1916 Congress passed the Federal Warehouse Act. Scarcely a legislative year passes but that additional warehousing legislation is enacted in the different states. Sometimes this legislation is initiated by producers, sometimes by merchandisers of products, and at other times by warehousemen themselves. As for the public welfare, much of this legislation frequently might well not have been enacted. In passing may I suggest that the securing of proper legislation with due regard for the interests of the public and warehousemen is a function to which your association and cotton warehousemen in general might well give serious consideration. Here is a field which invites the closest study and which is a challenge to the best talent of your membership and of all cotton warehousemen throughout the cotton-producing area. In approaching this subject, bear in mind the public is more and more casting its eyes in your direction.

So far as providing adequate physical protection of the products is concerned we are of one mind, theoretically at least, that the warehouseman owes that duty to the depositor. But practically we find, too often, deliberate attempts on the part of warehousemen to avoid, even that responsibility. Make a collection of warehouse receipts sometime from various sections; take a day off and scan them with the eye of a depositor who actually wants protection and draw your own conclusion as to the protection some of the receipts afford. You will probably be considerably amused before the day is past. More than likely you will conclude that there is much reason



for the demand that seems ever to exist for more legislation. You will be amazed to find warehouse receipts which boldly attempt to relieve the warehouseman of liability for damage even when caused by their own negligence.

As cotton warehousemen you will be surprised at the lack of real information on many receipts. You may be disgusted with the many words in some receipts, all of which afford the depositor no protection but only tend to confuse. In the great majority of cases you will find it impossible to determine what charges might be claimed as liens against the products.

In short, you will probably conclude before you have half finished your self-assigned task that, although all warehousemen theoretically agree that a warehouseman is legally liable to afford adequate protection to products entrusted to his care, in everyday practice, if you can rely on the warehouse receipts that are issued, there is frequently an attempt to avoid this elementary responsibility, or to make the holder of the receipt believe the warehouseman is not responsible.

With these observations I submit that it is the warehouseman's moral and legal duty to extend to his patrons adequate physical protection to his product, and it is also his moral, and should be his legal obligation, to issue to his patrons a warehouse receipt which, without multiplicity of words and free technical or legal evasion, binds the warehouseman to give such protection.

We suggested a second primary reason for storing products is to convert them into collateral. That creates another responsibility for a warehouseman. The warehouse receipt is symbolical of the product itself. It travels as the product. If you are asked to make a loan on a chattel or a piece of real estate, you want to see the property or you want some one who



is competent and disinterested to make an appraisal of it. You want to know fairly accurately what the property is, where it is, what it might be worth, whether it is insured and if so for whose benefit, whether it is in good condition, readily marketable, and if it be personal property, who will retain possession of it if and when you make a loan. You will want to satisfy yourself in whom title reposes, and whether there are any liens against it. These are all factors that sound loaning long since has dictated should be definitely settled before you part with your money.

Now what about the bale of cotton or other commodity that is stored? Should we expect the banker or anyone who is willing to make a loan to be less prudent when he loans on cotton than you are when you loan on some other chattel or piece of real estate. You may answer that loans on warehoused commodities, and particularly on cotton, are made on a different basis. But that is begging the real question.

I raise the more serious question with you: Are you quite fair to your patron when you place him in a position where he cannot bargain with his banker to best advantage? You tell me bargaining with the banker for a loan is the cotton producer's or the cotton merchant's business -- not yours. Again I agree with you. But he offers to the banker as security for any loan he may get your warehouse receipt. He can't roll his bale of cotton to the bank, and the banker won't go to the bale of cotton. Your warehouse receipt stands for the bale of cotton. Your patron's chance of securing a fair and intelligent loan rests entirely on your warehouse receipt. The warehouseman who desires to serve his patrons and to facilitate their business is obliged by all the rules of sound and fair business to issue to his patrons a warehouse receipt that will convey to a banker such accurate



information as is essential to making a sound commodity loan. And he will take every reasonable step to protect that warehouse receipt so long as it is outstanding.

What is essential information to a warehouse receipt? Put yourself in the place of the banker to whom your patron goes for a loan. Your patron presents your warehouse receipt, or a handful of them, as security. Fancy yourself to be a banker who does not know you, never heard of you, does not even know whether you have a warehouse, or whether it affords adequate protection, or whether you really have any cotton in the warehouse. How much would you loan on those warehouse receipts? Examine your warehouse receipts closely. If you were a banker, could you really make a loan with even a moderately comfortable degree of certainty that you were not taking a long chance?

What would you as a banker, conscious of your responsibilities as custodian of the public's savings, want to find in a warehouse receipt? First of all you would want to know what the receipt represents. A bale of cotton, of course. But any one bale of cotton isn't the equivalent of every other bale of cotton. You would want to know what the bale weighs, whether the cotton is in good condition, whether insured and by whom, with what company, under what form of policy, and for whose benefit?

If you were a fairly prudent banker you would want to know something of the quality of the cotton -- its grade and staple. As a warehouseman, don't content yourself with the thought that the banker doesn't want to know grade and staple. Some cotton merchants may tell you he does not, but my experience is that more and more bankers want such information. The borrower may tell the banker what the grade and staple may be, but the



Careful banker would prefer a determination of such information and a statement thereof by a disinterested and responsible party -- one who is prepared financially to back up his findings. And who should be better qualified to make such findings than a disinterested warehouseman?

Besides, if a warehouseman wants a banker to view his receipts as sound collateral, he should be willing to tell what his receipts actually represent. Of course bankers want such information. Both the country banker and the city banker need and want information as to weight, grade, staple length and condition of the cotton. Some time ago a Vice President of a bank which has probably loaned more money on cotton than any other bank in the country stated to me that the most progressive step that could be made in the cotton industry would be to require each receipt to show the grade and staple of the cotton. That same statement has come from many quarters.

I sense your reaction to the suggestion. You don't need to argue the point with me. I know all your objections. But look into another field of warehousing. It is a common statement that grain flows like water. But what grain warehouseman would think of issuing a receipt without a statement of grade? And what grain warehouseman would not expect to stand back of his receipt? One who refused would soon find himself out of business.

In this matter of statement of grade and staple on receipts we are not without precedent in cotton. Under the Federal Warehouse Act each year hundreds of thousands of receipts are issued which carry grade and staple, and the tendency is to increase this number year by year.

The loans of the Commodity Credit Corporation always had to be supported by a statement on the receipt that the cotton was of at least a certain grade



and staple. Few, if any, warehousemen refused to make those statements. The principal complaints by warehousemen were that they didn't get enough cotton and that they thought they should have a higher storage rate. But several million receipts were issued carrying some statement of grade and staple. The determinations may not have been too accurate, but the receipts issued under CCC requirements were a step in the right direction.

It is suggested to you, as warehousemen, that a statement of grade and staple on receipts by warehousemen generally would go a long way toward making your receipts more serviceable to depositors and more acceptable to bankers. Here is a specific challenge to the cotton warehouse industry and a responsibility you owe to your patrons and to bankers. Unless I am much mistaken, stating grade and staple length on a receipt would probably prove a business-getter. It has proved such to some warehousemen.

Let us continue in the role of the loaning banker. You probably would want to find something on the warehouse receipt that would enable you to claim against all the world the specific bale of cotton upon which you make a loan. You would want such definite identification as would enable you to claim that bale against your depositor, a trustee in bankruptcy or what-not, in event your loan was not paid. Here again you must remember not any one bale of cotton will answer.

As a sound banker you want to know much of the warehouseman issuing the receipt. Who is he? What is his history? Is he financially responsible? How big an operator is he? Whom does he serve generally? Do his patrons continue with him year after year? Does he meet his obligations? What kind of a warehouse has he? Does he own his warehouse and facilities or is he a lessee at a nominal rental and for but a short term? In other words,



has he a substantial stake in the business or can he like the Arabs, pull up his stakes, fold his tents and slip away silently in the night? Does he operate under any disinterested supervision? If so, of what does that supervision consist? Is it trained, responsible supervision resting in law, or is it untrained or interested or trade supervision, or supervision by some political agency more interested in maintaining itself in office than in doing a good supervisory job? Can I get important information from this supervisory service?

Finally, as a sound banker, you would want to know whether the warehouseman is in any way associated or connected with the borrower. In other words, does a disinterested custodianship of the cotton exist? As a banker you will probably not be unmindful of the fact that differences in names between borrower or depositor and warehouseman do not necessarily always mean wholly different and unrelated persons or corporate entities. You will always remember that the hypothecating of a warehouse receipt as collateral to a loan is an attempt to create a relationship of pledgor and pledgee, and that one of the essentials to the creation of a valid pledge is that there shall be a parting with possession of the thing pledged.

This requirement raises the very practical question whether there is a parting with possession which the law contemplates if the warehouseman is an individual who is controlled by the borrower or is a corporation that is largely owned and controlled by the borrower. The prudent banker will not view with favor the mere creation of separate legal entities. He wants to know that the warehouseman is in fact independent of his borrower. He does not want his borrower to be in the position where he can control the warehouseman or exercise any control over the product. He cares not about legal fictions. He wants to know what the every-day operation is in the



warehouse.

As warehousemen another of your responsibilities is to see that your operations are always on such a plane of disinterested custodianship as to challenge the closest investigation. Of course you want your warehouse receipts to be above suspicion in all quarters.

So far we have discussed the responsibilities that warehousemen owe to their patrons and to bankers. Let us consider for a moment the responsibilities to a class a little closer home -- responsibilities to employees. In doing so I do not assume the role of the social reformer. I am thinking again about the standing of your warehouse receipts as collateral. Of course you all mean to be fair with your employees -- both those in the office and those in the plants. But you know the very air is filled with demands, and strikes and sit-downs and still more demands. You may have been comparatively free of labor troubles thus far. May you continue to be. But the spirit of unrest travels, and I venture to suggest it is well to counsel with your employees. Acquaint them with your problems. Let them wrestle with these problems. Be frank with them. Share not only your trouble but a reasonable part of your profits with them. Make them feel they are a part of your official family and not part of your equipment. Check over their contributions to your business. Review your past financial statements and the distributions you have made to officers and stockholders. Review the past payrolls of your employees and ask yourself in the light of those records whether you have given those employees their fair share. Discuss the past with them. Nothing is a better antidote to labor trouble than frankness and fairness with employees. I refer to this obligation to your employees not as a crusader for your employees' rights,



but rather because of those responsibilities you owe to your patrons and the bankers. Of course you recognize that unless your employees join hands with you, are faithful and loyal and responsive to every call, you can't fulfill your obligations, and unfulfilled obligations, especially when vital to big business transactions, whether of your own making or not, always have their bad effects.

Another group to whom a warehouseman owes a responsibility is the stockholders. In some instances stockholders have had long, lean years. But sometimes I fear in some of these cases those lean years were due to the management itself rather than other causes. Sometimes management has been wasteful, or it undertook to do the impossible, or it suffered from too much promotion and bond-issue fever, or from over-expansion. Sometimes the methods pursued to secure business were entirely out of line with the possible reward if the business were obtained. Sometimes in a wild desire to grab volume or to keep the business from a competitor a bid was made so low as to preclude any possibility of profit. Competent and honest management will always try to conduct its business with full appreciation of its responsibilities to its stockholders, while on the other hand stockholders must be content with a fair return on their investment and not demand of its management the pursuit of a policy of all the traffic will bear. Such a policy is bound to result in other agencies entering the field. Already evidence is at hand of a threatened invasion of your field by agencies which have little to lose and all to gain. They will be bold in their representations, even though their methods strike at the very vitals of sound public warehousing and the principle of disinterested custodianship. Here is another challenge to you in the very name of warehousing itself.



Cotton warehousemen as such have another responsibility which too frequently is little considered -- the responsibility of one warehouseman to another. By and large cotton warehousemen seem to be an unorganized group, or if organized, they do not have a working organization. There are local associations, a few State associations, a regional association or two, and this Ports Association. But what do you do? You have meetings. You discuss problems. You may agree to do certain things. You may condemn rate-cutting. You agree that rate-cutting without relation to costs shall be ended. You may talk about the need for a strong aggressive organization. You may attempt to agree on uniform tariffs. You resolve as an organization and as individuals to combat this or that evil. You agree that you must take aggressive steps to place your industry on a high plane and sell it to the public. You agree that, as an industry, you should approach certain developments which, if they should materialize, would hurt you collectively and individually as warehousemen, your patrons, and the public in general. You resolve to cooperate with this group and that group, and with the Government in the promotion of various undertakings. All these and many other activities you agree to undertake as an association, and then you depart, each on his way. And sometimes, I venture, before you reached home some of you did the very things you resolved a few hours before should henceforth not be done.

Let me recall an instance that emphasizes the point. A few years ago cotton warehousemen were supposed to formulate a code. You had your meetings. You came to Washington. You left without anything accomplished. More meetings followed. You returned to Washington, and while some of you were there wrestling with code officials, others were going around other



offices trying to see if they could not make some kind of a contract at any kind of a price. What cooperation!

I have spoken of the responsibilities of the warehouseman to his patrons, to the bankers, to the cotton buyers, the railroads, the insurance and surety companies, to his employees and stockholders, to the Government, and finally of the warehousemen to each other. But by no means does the responsibility of the warehousemen to each other come last in relative importance. The interest of the public as a whole will be best served by a frank recognition on the part of all warehousemen that the place to begin work is right at home.

Let us recall the charge of one of the Greek philosophers: "Know thyself." Know your own business. View it honestly with the eyes of those whom you would serve. In your attempts to improve your business and to assume your full responsibilities as warehousemen, do not overlook that there are agencies of the Federal Government that view operations over the country as a whole and that they are always ready to serve.

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